

Filed for intro on 02/02/95  
House Bill \_\_\_\_\_  
By \_\_\_\_\_

Senate Bill No.SB0424  
By Rochelle

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 86,  
relative to emergency communications districts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The general assembly finds that the “emergency communications district law” has been successfully embraced by the vast majority of Tennessee counties, most of which have already initiated enhanced 9-1-1 (E-911) service and are developing or maintaining this lifesaving service in furtherance of the purposes stated in the law. The general assembly also finds that the establishment of a minimum level of emergency communications services for all citizens of the state will promote the public interest.

SECTION 2. Tennessee Code Annotated Title 7, Chapter 86, is hereby amended by adding Sections 3 through 9 as a new appropriately designated part.

SECTION 3.

(a) There is hereby created in the Department of Commerce and Insurance an Emergency Communications District Management Review Board for the purpose of assisting emergency communications district boards of directors in the area of

management, operations, and accountability, and establishing a minimum level of emergency communications services for all citizens of the state. Effective July 1, 1995, notwithstanding the provisions of any law to the contrary, the Emergency Communications District Management Review Board created in this section shall have authority over all emergency communications districts established pursuant to this chapter or by any public or private act.

(b) The board shall be composed of nine (9) members as follows:

(1) A citizen, appointed by the governor, who has no connection to emergency communications districts and does not fit any other requirements;

(2) The comptroller of the treasury or the comptroller's designee;

(3) One representative of county government, appointed by the governor.

The governor shall consult with the Tennessee County Services Association as to qualified individuals to be appointed to the board;

(4) One representative of city government, appointed by the governor.

The governor shall consult with the Tennessee Municipal League as to qualified individuals to be appointed to the board; and

(5) The governor shall appoint five (5) members, who shall be either experienced directors of emergency communications districts or experienced members of emergency communications districts boards of directors at the time of their appointment. The governor shall consult with the Tennessee Emergency Number Association as to qualified individuals to be appointed to the board.

(c) Members shall be appointed to four (4) year terms; provided, however, the initial gubernatorial appointments shall be for two (2), three (3), and four (4) years to establish staggered terms.

(d) The board shall elect a chair and any other officers as it may deem necessary for two (2) year terms.

(e) The board shall meet at least quarterly, or as otherwise needed.

(f) A majority of board members constitutes a quorum.

(g) All meetings of the board shall be subject to the provisions of Tennessee Code Annotated Title 8, Chapter 44, and Tennessee Code Annotated Title 10, Chapter 7.

SECTION 4. In order to effectuate the purposes of this part, the board has the power and authority to:

(1) Promulgate rules and regulations for the conduct of the affairs of the board;

(2) Adopt a seal for the board, prescribe the style thereof and alter the same at pleasure;

(3) Subject to the provisions of Title 9, Chapter 6, appoint and fix the salaries and duties of such experts, agents, and employees as it deems necessary;

(4) Make and enter into contracts;

(5) Accept gifts, grants, or other moneys and to receive appropriations which may be made by law;

(6) Give advisory technical assistance to any emergency communications district upon request;

(7) Establish minimum technical operating standards for emergency communications districts;

(8) Establish minimum operating standards concerning acceptable uses of revenue for emergency communications districts;

(9) Establish financial accountability and accounting standards in consultation with the comptroller of the treasury for emergency communications districts;

(10) On the complaint or request of any citizen, or on its own motion, the board shall have the following authority and powers:

(A) Review and revise rate structures of individual emergency communications districts;

(B) Take such action as is necessary to ensure that the board of directors of an emergency communications district satisfactorily addresses valid concerns of cities, counties, and other governmental entities located within a district's service area;

(C) Order the creation of a new emergency communications district within the boundaries of an existing emergency communications district;

(D) Order the consolidation or merger of two (2) or more emergency communications districts;

(E) Order an existing emergency communications district to provide service to an area without emergency telecommunications service;

(F) Review any decision of the board of directors of any emergency communications district, irrespective of any exemptions or exclusions; and

(G) The board may remove for cause any member of the board of directors of an emergency communications district.

(11) Any decision or ruling by the board may be appealed as provided by the Uniform Administrative Procedures Act, under Tennessee Code Annotated Title 4, Chapter 5.

(12) In the conduct of any hearing upon request or complaint, the board may receive evidence in the form of affidavits in addition to minutes, transcripts, and other evidence of actions by the emergency communications district, and the board may render its decision thereon or, if it shall deem an open hearing appropriate, may order the interested parties notified of the date, time and place that the hearing will be held;

(13) From time to time, submit to the speakers of the general assembly its suggestions for proposed amendments to this chapter; and

(14) Exercise all the powers and take all the actions necessary, proper, or convenient for the accomplishment of the purposes enumerated herein.

#### SECTION 5.

(a) The comptroller of the treasury is directed to develop a uniform financial accounting system conforming to generally accepted accounting principles for use as required by this section. Effective July 1, 1996, each emergency communications district shall use the uniform financial accounting system developed by the comptroller of the treasury.

(b) The annual audit of all emergency communications districts shall disclose the failure of any district to maintain such a financial accounting system as prescribed by the comptroller of the treasury. The comptroller of the treasury shall file with the board a copy of the audited financial statements of each emergency communications district pursuant to Section 7-86-113. The board shall have authority to act upon any adverse findings noted in such audits and/or financial statements and to order such action as may be necessary to remedy the adverse findings.

(c) The board of directors of each emergency communications district shall file with the board a copy of its annual budget, prepared in accordance with Section 7-86-120.

(d) Any emergency communications district which is a financially distressed district shall be subject to the supervision and evaluation of the board. For the purposes of this chapter, a financially distressed emergency communications district is a district which, as shown by the annual audits:

(1) Fails to produce revenues sufficient to provide for all expenses and maintenance of the district, including reserves thereof, for a period of three (3) consecutive years or,

(2) Has a deficit retained earnings balance, or

(3) Is in default on any indebtedness.

After reviewing the financial statements of any financially distressed emergency communications district, and after holding a public hearing, the board may prescribe a rate structure, within the maximum established pursuant to Section 7-86-108, to be adopted by the district, as may be necessary to cause the district to liquidate in an orderly fashion any retained earnings deficits and/or to cure a default on any indebtedness of the district.

(e) After reviewing the financial statements of any emergency communications district and determining that such district is accumulating excess reserves or retained earnings, and if the district is not able to justify such accumulation of revenues, and after holding a public hearing, the board may prescribe a refund to rate payers and/or a rate structure to be adopted by the district as may be necessary to cause the retained earning to fall; provided, however, such rate is adequate to cover reasonable costs of operation.

(f) If the board of directors of such emergency communications district fails to adopt the prescribed rate structure, the Emergency Communications District Management Review Board may, in addition to any and all other remedial actions available to it, petition the chancery court in a jurisdiction in which the emergency communications district is operating to require the adoption of the rate structure or refund prescribed by the board or such other remedial actions, which, in the opinion of the court, may be required to cause the district to be operated in accordance with the provisions of state law.

## SECTION 6.

(a) The Emergency Communications District Management Review Board shall develop and implement a plan for providing a minimum level of emergency communications service to all citizens of Tennessee. The plan shall provide for:

(1) The review and analysis of progress maintained by each existing emergency communications district in complying with minimum technical, operating, and financial standards as determined in this part by the board;

(2) Steps of action necessary for each emergency communications district not meeting minimum technical, financial, and operating standards as established in this part by the board;

(3) Steps of action necessary for each emergency communications district maintaining excess reserves or retained earnings as established in this part by the board; and

(4) A firm implementation schedule that will account for the progress achieved by each district in attaining and maintaining financial, technical, and operating standards.

(b) The board shall encourage and promote the planning, development, and implementation of each 911 system plan.

(1) The board shall promulgate any necessary rules, regulations, and schedules related to public agencies for implementing and coordinating a 911 system plan, and shall act as the deciding agency whenever disputes arise or agreements cannot be reached between the emergency communications district and other governmental units involving the 911 system.

(2) Such plan shall include specific local requirements. Such system shall include law enforcement, firefighting, and emergency medical services and may include other emergency services such as poison control, animal control, suicide prevention, and emergency management services.

(3) Such plan shall include minimum funding requirements necessary to implement and operate the 911 system; provided, however, that if anticipated revenues are not adequate to achieve and maintain minimum technical and

operating standards as established in this part, the board shall undertake a study to determine if an existing emergency communications district could provide service to that area.

(c) All new 911 system plans shall be approved by the Emergency Communications District Management Review Board prior to implementation.

(d) In any jurisdiction where a referendum has not been held or passed to create an emergency communications district, the board may order that jurisdiction to be served by an existing emergency communications district. The board shall establish a minimum level of service and rate structure within such jurisdiction. Nothing herein shall be construed to prevent the conduct of a referendum within the jurisdiction prior to a determination by the board pursuant to this subsection.

#### SECTION 7.

(a) The board's budget shall be subject to approval by the general assembly.

(b) If the budget of the board is not funded by a service charge on cellular and wireless telephones, the board shall determine a service charge payable by each emergency communications district based on gross revenue of each district and payable directly to the board by the respective telephone companies.

(c) The board has the authority to establish minimum levels of gross revenues before the charge is applicable. The board may grant waivers for emergency communications districts determined to be financially distressed.

(d) Any funds collected in excess of the annual fiscal requirements of the board shall not revert to the general fund. Any unspent funds at the end of a fiscal year shall be carried forward to the next fiscal year to be used as a beginning balance for the fiscal requirements for such fiscal year.

SECTION 8. The board shall report annually to the governor and the speakers of the general assembly on the activities of the board for the preceding year. The board shall receive



and consider from any source whatsoever, whether private or governmental, suggestions for amendments to this chapter.

SECTION 9. After the effective date of this act, no emergency communications district shall be created within the boundaries of an existing emergency communications district without prior approval by the board.

SECTION 10. Tennessee Code Annotated, Section 7-86-103, is amended by deleting subdivision (5) in its entirety.

SECTION 11. is amended by deleting subsection (a)(2) in its entirety.

SECTION 12. Tennessee Code Annotated, Section 7-86-107(a), is further amended by deleting the language “four (4) methods” and by substituting instead the language “three (3) methods”.

SECTION 13. Tennessee Code Annotated Section 7-86-103, is amended by adding the following as a new subdivision:

( ) “Public safety emergency services provider” means any unit of local government that provides emergency services to the public. Such providers and/or services include, but are not limited to emergency fire protection, law enforcement, police protection, emergency medical services, poison control, animal control, suicide prevention, and ambulance services.

SECTION 14. Tennessee Code Annotated Section 7-86-107, is amended by inserting the following language, to be designated as subsection (b), and by redesignating the present subsections accordingly:

(b) Provided, however, each public safety emergency services provider retains the right to dispatch its own services, unless a voluntary agreement is made between such provider and the board of directors of the emergency communications district.

SECTION 15. The provisions of Sections 1 through 9 shall take effect July 1, 1995, the public welfare requiring it. The provisions of Sections 10 through 14 shall take effect upon becoming a law, the public welfare requiring it.

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